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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,902	06/26/2001	Michael J. Stickney	ESG-030388-US	1417

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EXAMINER

MEDLEY, MARGARET B

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 07/16/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/891,902

Applicant(s)

STICKNEY et al

Examiner

MEDLEY

Group Art Unit

1714

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-21, 24, 32-35, 38-44 and 65-69

Of the above claim(s) \_\_\_\_\_ is/are pending in the application.

☐ Claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-21, 24, 32-35, 38-44 and 65-69 is/are allowed.

☒ Claim(s) 22-23, 25-31, 36-37 and 45-64 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Interview Summary, PTO-413

☐ Notice of Informal Patent Application, PTO-152

☐ Other \_\_\_\_\_

Office Action Summary

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 9, 11, 19, 32-35, 38, 41 and 44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Killick et al (Killick) WO95/02654.

Killick teaches and discloses a full blend comprising a liquid hydrocarbon, gasoline, up to 20% of an alcohol, ethanol and/or a propanol and a fatty acid and/or organic ester, ethyl acetate, note page 5, Example 3, page 6, Example 8 and page 10, Example 30, Examples 4 and 9 additive composition that anticipate the instant claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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*Keep* Claims 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killick et al (Killick) WO95/02654.

*No proportion mentioned*  
Killick teaches are set forth above and are not repeated herein. Patentee further teaches the inclusion of methanol, butanol, iso-butanol, tertiary-butanol or mixtures thereof page 3 lines 11-12 that render obvious the alcohols of the instant claims.

*Keep* Claims 1, 6, 14, 19, 32-34 and 38-40 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sieg et al (Seig) 3,903,251.

Seig teaches and discloses gasoline comprising butanol and tertiary butylacetate, column 7, and lines 9-15 that anticipates the instant claims.

*Keep* Claims 1-3, 5-11, 14, 19, 32-35 and 43-44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith 4,394,133.

Smith teaches a fuel composition composing gasoline, ethanol and C1-C6 alkyl acetate that anticipates the instant claims, abstract, column 2, lines 7-46 and 65-68 and claims 11-15.

*Keep* Claims 1-4, 6-8, 11, 19, 32-34, 38 and 43-44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mayerhoffer et al (Mayerhoffer) 3, 860,262.

Mayerhoffer teaches and discloses gasoline methyl acetate, methanol and isopropanol, Examples 9 and 10 of columns 10-11 that anticipates the instant claims.

*Keep*  
*See also*  
*See also*  
Claims 1-3, 4-7, 9, 11, 19, 32-35, 38-40 and 43-44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tunison 1,423,048.

Tunison teaches fuels comprising heavy oil, ethyl acetate, C1-C5 alcohol or mixture thereof and ether, Examples 2, 3, and 6, page 2, lines 4-6 that anticipates the instant claims.

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*3/11/06*  
Claims 1-13, 20-21, 24, 32-35, 38-40, 43-44, and 65-67 are rejected under 35

*3/11/06*  
U.S.C. 102(b) as being anticipated by Wuff et al (Wuff) 6,287,351 B1.

Wuff teaches and discloses a fuel composition composing gasoline, alcohol and/or mixture of a lower ester that includes C1-C2 formate, acetate or propionate, column 4, line 55 to column 5, lines 1-22, that anticipates the instant claims when an alcohol and formate, acetate or mixture of acetate are added to the gasoline.

*7/1* *? Dorer*  
Claims 1-13, 20-21, 24, 32-35, 38-40, 43-44 and 65-69 are rejected under 35

U.S.C. 102(b) as being anticipated by Wuff et al (Wuff) 6,076,487.

Wuff teaches a fuel composition comprising acetylene, alcohol and /or mixture of a lower ester that includes C1-C2 formate, acetate or propionate, column 3, lines 12-34 that anticipate the instant claims when an alcohol, methyl acetate and ethyl acetate or formate are present.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*Keep*  
Claims 1, and 15-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dorer et al (Dorer) 3,658,495.

Dorer teaches fuel compositions composing gasoline or diesel fuel column 7, lines 73-75, an oxy compound including formyl, acetyl, propioryl, column 2, lines 37-70, column 3, lines 14-43, and particularly ethylene glycol diacetate, column 3, line 42 that anticipates or in the alternative render obvious the instant claims.

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*by*  
*no prior art of reference*  
Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killick et al (Killick) WO 95/02654, and (Dorer, Jr.) 3,658, 495 as applied to claims 1 and 15-18 above, and further in view of Gyimah et al (Gyimah) 5,302,592.

Gyimah teaches biocides, column 13, lines 57+ for example 8, for applications in fuels, column 9, lines 36-50, providing the motivation to add a conventional well known biocide to the fuel composition of the primary reference providing its biocidally properties thereto rendering the instant claim obvious

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

*o/k* Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is indefinite for R3 and R4 that does not find support in claim 14 from which the said claim depends.

*o/k* Claim 17 recites the limitation " R3 and R4, " in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claims 22-23, 25-31, 36-37 and 45-64 appear to contain allowable subject matter.

The prior art cited but not applied further teach fuel composition comprising additives of the same nature as claimed by applicants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is 703-308-2518.

The examiner can normally be reached on Monday-Friday from 7:30 am to 6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Examiner Medley/mn  
July 8, 2002

  
**MARGARET MEDLEY**  
**PRIMARY EXAMINER**